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08/835,625	04/09/1997	EDWARD W. MOLL	M10043/20006	5281
3000 7590 02/18/2009 CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOV, LTD. 11TH FLOOR, SEVEN PENN CENTER 1635 MARKET STREET PHILADELPHIA, PA 19103-2212				
			EXAMINER TWEEL JR, JOHN ALEXANDER	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDWARD W. MOLL

Application No. 08/835,625
Technology Center 2600

Mailed: February 17, 2009

Before PAMELA S. BENNETT, *Review Team Paralegal*.
BENNETT, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on February 9, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matters requiring attention prior to docketing.

APPEAL BRIEF, SUMMARY OF CLAIMED SUBJECT MATTER

Appellant filed an Appeal Brief dated November 21, 2005. The Appeal Brief is not in compliance with 37 CFR § 41.37(c) effective September 13, 2004.

According to 37 CFR § 41.37(c) (v), an Appeal Brief must include the following:

(v) *Summary Of Claimed Subject Matter*. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters

The “Summary of claimed subject matter” appearing on pages 2-11 of the Appeal Brief filed November 21, 2005 is deficient because it does not separately map independent claims 55, 68 and 70 to the specification. Correction is required.

APPEAL BRIEF, HEADINGS

The Appeal Brief filed November 21, 2005 also does not comply with 37 CFR § 41.37(c) because it does not contain all of the required heading items. Specifically, 37 CFR § 41.37(c)(1) requires the following heading items in the following order:

- (i) *Real party in interest.*
- (ii) *Related appeals and interferences*
- (iii) *Status of claims.*
- (iv) *Status of amendments.*
- (v) *Summary of claimed subject matter.*
- (vi) *Grounds of rejection to be reviewed on appeal.*
- (vii) *Argument.*
- (viii) *Claims appendix.*
- (ix) *Evidence appendix.*
- (x) *Related proceedings appendix.*

It is noted that while additional pages appear after the “Claims Appendix,” they have not been identified as “Evidence appendix” or “Related proceedings appendix.”

A substitute Brief that is in compliance with § 41.37(c) is required. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8th Ed., Rev. 6, September 2007) for details.

CONCLUSION

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed November 21, 2005 defective, as required by 37 CFR § 41.37(d);
- 2) to notify Appellant to submit a revised Appeal Brief which corrects the Appeal Brief’s “Summary of Claimed Subject Matter,” “Evidence appendix” and “Related proceedings appendix”;

- 3) to acknowledge and consider the revised Appeal Brief; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

PSB

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